

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT LEE STINSON,

Plaintiff,

Case No. 09-C-1033

v.

THE CITY OF MILWAUKEE, THOMAS
JACKELLEN, JAMES GAUGER, and other
AS-OF-YET UNKNOWN EMPLOYEES OF THE
CITY OF MILWAUKEE, and DR. LOWELL
T. JOHNSON,

Defendants.

**ANSWER TO AMENDED COMPLAINT OF DEFENDANTS CITY OF MILWAUKEE
AND JAMES GAUGER**

The defendants, the City of Milwaukee and James Gauger, by their attorneys, Grant F. Langley, City Attorney, by Assistant City Attorney Jan A. Smokowicz, as and for an answer to the plaintiff's amended complaint, state as follows:

1. Answering paragraphs 1, 2, the first and last sentence of paragraph 3, and paragraph 4, lack knowledge or information sufficient to form a belief as to the allegations contained therein.

2. Answering paragraphs 5 and 6, the allegations contained therein are legal conclusions to which no answer is necessary or appropriate; however, in the event that the Court deems an answer to be required, lack knowledge or information sufficient to form a belief as to the allegations contained therein.

3. Answering paragraphs 7 and 8, lack knowledge or information sufficient to form a belief as to the allegations contained therein.

4. Answering the first sentence of paragraph 11, lack knowledge or information sufficient so as to form a belief as to the truth of the allegations contained therein; answering the second sentence of paragraph 11, deny the allegations contained therein.

5. Answering paragraphs 14, 15, 16, 17 and 20, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

6. Answering paragraphs 18, 19 and 21, deny the allegations contained therein.

7. Answering the second and third sentence of paragraph 22, lack knowledge or information sufficient so as to form a belief as to the truth of the allegations contained therein.

8. Answering the second sentence of paragraph 23, deny the allegations therein.

9. Answering the last sentence in each of paragraphs 24 and 25, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

10. Answering paragraphs 29, 30, 31, and 32, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

11. Answering paragraph 33, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

12. Answering paragraphs 34, 35, 36, 37, 38, 39, 40, 41 and 42, deny the allegations contained therein.

13. Answering paragraph 43, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

14. Answering paragraphs 44, 45, 46, 47, 48 and 49, deny the allegations contained therein.

15. Answering paragraph 50, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

16. Answering paragraphs 51, 52, 53, 54, 55, 56, 57, 58 and 59, deny the allegations contained therein.

17. Answering paragraph 60, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

18. Answering paragraphs 66 and 67, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

19. Answering paragraphs 68, 69 and 70, deny the allegations contained therein.

20. Answering paragraph 71, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

21. Answering paragraphs 72 and 73, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

22. Answering paragraph 74, deny the allegations contained therein.

23. Answering paragraph 75, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

24. Answering paragraphs 76, 77, and 78, deny the allegations contained therein.

25. Answering paragraph 79, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

26. Answering paragraphs 80, 81, 82 and 83, deny the allegations contained therein.

27. Answering paragraph 84, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

28. Answering paragraphs 85, 86, 87, 88, and 89, deny the allegations contained therein.

29. Answering paragraph 90, reallege and incorporate herein by reference as though fully set forth herein these defendants' answers to each of the paragraphs of the complaint.

30. Answering paragraphs 92 and 93, deny the allegations contained therein.

AFFIRMATIVE DEFENSES

AS AND FOR AFFIRMATIVE DEFENSES, the defendants, the City of Milwaukee and James Gauger, allege as follows:

1. As to the individual defendants sued in their individual capacities, they are entitled to qualified immunity and the City is, furthermore, then not required to indemnify them for any such claim.

2. To the extent that the plaintiff has failed to mitigate his damages, part or all of his claims are barred by his failure to mitigate his injuries.

JURY DEMAND

The defendants, the City of Milwaukee and James Gauger, hereby demand a trial by jury.

WHEREFORE, the defendants, the City of Milwaukee and James Gauger, hereby demand judgment as follows:

1. Dismissal of the plaintiff's complaint on its merits, together with costs and disbursements herein; and

2. Such other and further relief as the Court may deem just and equitable.

Dated at Milwaukee, Wisconsin this 7th day of January, 2010.

GRANT F. LANGLEY
City Attorney

s/JAN A. SMOKOWICZ
Assistant City Attorney
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